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EX PARTE OR LATE FILED

June 12, 2000

Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, DC 20554

Re: GTE Corp. and Bell Atlantic Corp., CC Docket No. 98-184

Dear Ms. Salas:

This *ex parte* letter responds to the June 7, 2000 *ex parte* filing of Bell Atlantic Corp. and GTE Corp. ("Applicants" or "Verizon," where appropriate). In their June 7 filing, the Applicants modified their proposal regarding GTE's interLATA assets ("Genuity") in several respects. The most important modification concerns the disposition of the financial gain available to Verizon that will be attributable to the in-region interLATA activities of Genuity occurring before Verizon receives approval under Section 271 to lawfully undertake those activities.

This proposed modification is, in principle, an important improvement in the Applicants' proposal. We commend Bell Atlantic and GTE for concluding (albeit belatedly) that a "disgorgement" of such improper financial gain must be an element of their Genuity proposal, and we commend the Commission for the steadfastness that apparently led the Applicant to finally take this step. The Applicants, however, have not fully followed through in practice with the principle that they purport to follow; the proposed modification only reduces, and does not eliminate, the financial gain attributable to Genuity's in-region activities in states still subject to Section 271 restrictions. In this letter we recommend two simple modifications to the Applicants' proposal that will improve the proposal so that it more nearly respects the purposes and preserves the incentives of Section 271 of the Communications Act.

From the beginning of this matter, CPI has maintained that eliminating the financial gain associated with impermissible interLATA activities is a *sine qua non* of any proposal that would comply with the requirements of Sections 3(1) and 271 of the Communications Act. In comments filed in this docket, in *ex parte* presentations to the Commission, and in a meeting with Bell Atlantic, CPI has repeatedly stressed that, if Section 271 means anything, it must mean that a BOC is not permitted to profit from interLATA services in any in-region state for which it has not yet secured approval under Section 271 to offer such services. The Applicants' proposal begins to serve that principle. It now remains to implement that principle fully and correctly.

Here are the two most significant shortcomings of the latest Bell Atlantic/GTE proposal with respect to this issue:

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- First, the Applicants assert in the June 7 filing that the appreciation in their shares attributable to Genuity's in-region interLATA activities should be assumed to be 25% of the Genuity's total appreciation. This percentage was selected because Bell Atlantic's in-region access lines comprised approximately 25% of total access lines in 1999.

  But there is no rational basis to conclude that the impermissible gain from Genuity will be proportional to Bell Atlantic's share of national access lines. The choice of 25% is quite arbitrary: Genuity's investment may not be spread across the nation uniformly; Genuity's interLATA traffic may not be proportional to access lines; and, most important, the fraction of Genuity's revenues derived from the Bell Atlantic region, the source of its impermissible appreciation, may be unrelated to Bell Atlantic's share of access lines.

  An obviously superior estimate of how much of Genuity's appreciation is due to its activity in the Bell Atlantic region would be to **compute the ratio of Genuity's revenues in the Bell Atlantic region compared to its total revenues.** Instead of using a fixed percentage such as 25%, the calculation should use this percentage, computed annually at the time the annual fraction is calculated (see below).

- Second, when computing the appreciation in Genuity that Verizon must forgo, the Applicants propose to compute annually the fraction of in-region access lines for which Section 271 restrictions have not been removed and then average those annual fractions. This is generally the correct approach *except that* the Applicants propose to measure such access lines each year on the anniversary of the Genuity IPO, *i.e., at the end of each annual period.* It can easily be shown mathematically that using end-of-period data creates a systematic bias in favor of the Applicants. In simple terms, the Applicants' method gives a full year's "credit" for a Section 271 approval that occurs anytime during the year. Depending on the assumed pattern of Section 271 approvals, we estimate that measuring this ratio at the end of the period understates the disallowed appreciation by at least 15% of its correct value.

  Since the purpose of this computation is to estimate the average number of lines for which Section 271 restrictions remain during a given year, the Applicants' method cannot be used. There are several ways to derive a superior estimate, some more complicated than others. Perhaps the simplest method— which CPI would endorse— is to **count the access lines at the midpoint of the twelve month period, instead of at the end of the period.** The resulting annual fraction would then approximate the "average" fraction of Verizon's access lines for which Section 271 restrictions remain during a given year. These annual fractions could then be averaged as in the Applicants' proposal.[1]

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[1]The Applicants' proposal seems not to have considered that the final period (between the last anniversary of the Genuity IPO and date on which Class B shares are converted) might not be a full twelve month period. In this case, it is not appropriate to use the annual fraction associated with this final period in a simple average. Instead, the fraction associated with the final period must be weighted by the portion of the year represented by the final period and the "divisor" in the calculation of the average must be adjusted to reflect the fractional number of years over which the average is being computed.

In conclusion, CPI continues to have substantial reservations about the ownership and control issues raised by the Applicants' proposal. As we have stated consistently in our previous comments in this case, we are unconvinced that the proposal complies with Sections 3(1) and 271 of the Communications Act. Nonetheless, the Bell Atlantic and GTE have now endorsed an important principle: that Verizon should not stand to gain from the appreciation in Genuity due to its interLATA activities in any in-region state before section 271 restrictions have been removed. The Applicants have offered a flawed, but salvageable, methodology to implement this principle. CPI urges the Commission to require amendments to this portion of the proposal in line with the recommendations we have made here.

Please treat this as an ex parte submission in accordance with Section 1.1206(b) of the Commission's rules. An orginal and one copy are being filed for inclusion in the public record.

Sincerely,

Ronald J. Binz
President

cc: Dorothy Attwood
Rebecca Beynon
James Bird
Michelle Carey
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